

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,)	
)	Case 2:19-cv-10750-NGE-SDD
Plaintiff,)	
)	Hon. Nancy G. Edmunds
v.)	
)	
DAMIAN JACKSON;)	
HOLLY JACKSON;)	
STREAMLINE PROPERTY)	
SOLUTIONS, LLC;)	
SABO ACCEPTANCE CORP.;)	
MACOMB COUNTY, MICHIGAN; and)	
STATE OF MICHIGAN,)	
)	
Defendants.)	

**MOTION TO REOPEN CASE
AFTER CLOSING OF BANKRUPTCY CASES**

The plaintiff United States of America, through its attorney Ryan D. Galisewski, hereby moves, pursuant to the Court's order dated April 8, 2020 (ECF No. 25), to reopen the above-captioned case following the closing of the bankruptcy case of defendant Damian Jackson, and for the setting of a status conference regarding a revised scheduling order on or after October 31, 2022. The United States is, immediately after filing this motion, submitting a motion for leave to amend its complaint to clarify its claims and the relief sought in the wake of the bankruptcy discharges of the Jacksons and to drop Sabo Acceptance Corp. as a

party-defendant, and requests that the Court consider and rule on that motion prior to any status conference.

In accordance with E.D. Mich. LR 7.1(a), counsel for the United States sought the concurrence of unrepresented defendants Damian Jackson and Holly Jackson in a telephonic conference on October 5, 2022, during which counsel explained the nature of the motion and requested but did not obtain concurrence in the relief sought.

A brief setting forth the grounds for this motion follows.

Respectfully submitted,

DAVID A. HUBBERT
Deputy Assistant Attorney General
Tax Division, U.S. Department of Justice

DAWN N. ISON
United States Attorney

JACQUELINE M. HOTZ
Assistant U.S. Attorney
211 W. Fort Street, Ste. 2001
Detroit, MI 48226
Tel: (313) 226-9108
Jackie.Hotz@usdoj.gov
Mich. Bar No.: P35219

/s/ Ryan D. Galisewski
RYAN D. GALISEWSKI
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 55, Ben Franklin Station
Washington, D.C. 20044
Tel: (202) 305-3719 / Fax: (202) 514-5238
Ryan.D.Galisewski@usdoj.gov

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,)	
)	Case 2:19-cv-10750-NGE-SDD
Plaintiff,)	
)	Hon. Nancy G. Edmunds
v.)	
)	
DAMIAN JACKSON;)	
HOLLY JACKSON;)	
STREAMLINE PROPERTY)	
SOLUTIONS, LLC;)	
SABO ACCEPTANCE CORP.;)	
MACOMB COUNTY, MICHIGAN; and)	
STATE OF MICHIGAN,)	
)	
Defendants.)	

**BRIEF IN SUPPORT OF
UNITED STATES' MOTION TO REOPEN CASE**

Issue Presented

Should this case be reopened for the United States to continue to seek to enforce federal tax liens and criminal restitution judgment liens against the subject real property after the closure of the bankruptcy cases of defendants Damian Jackson and Holly Jackson?

Controlling or Most Appropriate Authority

- Order Staying and Administratively Closing Case Due to Defendant Damian Jackson's Bankruptcy Filing (ECF No. 25)
- Rule 15 of the Federal Rules of Civil Procedure
- 11 U.S.C. § 523(a)(13) and 524
- *In re Kalabat*, 592 B.R. 134 (Bankr. E.D. Mich. 2018)

Grounds to Reopen

The United States filed this action on March 12, 2019, seeking to reduce to judgment unpaid federal tax liabilities owed by Damian Jackson and Holly Jackson, and to enforce against real property belonging to them the federal tax liens and a judgment of restitution arising out of criminal plea agreements they entered into. (ECF No. 1.)

On June 13, 2019, defendant Holly Jackson filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code, assigned to Bankruptcy Case No. 19-48831 in the Bankruptcy Court for the Eastern District of Michigan. On March 17, 2020, defendant Damian Jackson filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code, assigned to Bankruptcy Case No. 20-43978 in the Bankruptcy Court for the Eastern District of Michigan.

On April 8, 2020, the Court entered an Order Staying and Administratively Closing Case Due to Defendant Damian Jackson's Bankruptcy Filing (ECF No. 25), staying this action and administratively closing the case without prejudice,

and providing “that if the bankruptcy proceedings are terminated or the automatic stay is lifted with reference to the instant matter by the bankruptcy court, then this case may be reopened upon the motion of any party.”

The bankruptcy proceedings are now terminated. On October 15, 2019, the bankruptcy court closed Holly Jackson’s bankruptcy case, after entering a discharge. On January 24, 2022, the bankruptcy court closed Damian Jackson’s bankruptcy case. Thus, according to the Court’s order, “this case may be reopened upon the motion of any party.”

Although Damian Jackson and Holly Jackson received discharges in their Chapter 7 cases, the United States may still proceed on counts to enforce its federal tax liens and the criminal restitution judgments, as well as obtain judgment for liabilities that were excepted from discharge. The criminal restitution judgments entered against Damian Jackson and Holly Jackson are excepted from the bankruptcy discharges under 11 U.S.C. § 523(a)(13) and 18 U.S.C. § 3613(e) and (f), and the liens for the criminal judgments are also preserved by those provisions. Damian and Holly Jackson’s income tax liabilities are excepted from discharge under 11 U.S.C. § 523(a)(1)(C) because, as will be shown, they willfully attempted to evade or defeat the taxes, although the United States is not contesting the discharge of related penalties on the income taxes under 11 U.S.C. § 523(a)(7).

Moreover, the United States may still enforce liens that secure liabilities for income tax and civil tax penalties, even when there is a discharge for personal liability of those liabilities. Liens to secure payment of a pre-petition debt survive, or “ride through,” a Chapter 7 bankruptcy and discharge. *In re Kalabat*, 592 B.R. 134, 143 (Bankr. E.D. Mich. 2018); *see also Johnson v. Home State Bank*, 501 U.S. 78, 85 (1991) (noting that a “mortgage lien that passes through a Chapter 7 proceeding” may provide “an obligation enforceable against the debtor’s property”); *United States v. Toler*, 666 F. Supp. 2d 872, 882 (S.D. Ohio 2009). And, under 11 U.S.C. § 522(c), because notices of the tax liens were duly filed, the liens are not affected by any exemption.

In light of the above, the United States is simultaneously moving for leave to amend its complaint. In its proposed First Amended and Supplemented Complaint, attached to that Motion for Leave, the United States still seeks to enforce its liens against the Wendy Property and to obtain judgments against Damian and Holly Jackson personally to the extent there are still unpaid liabilities that were not discharged. The proposed amended and supplemented complaint also drops party-defendant Sabo Acceptance Corp., since that party no longer has any interest or claim against the subject property in this action.

WHEREFORE, the United States now moves to reopen this action and for entry of an order setting a status conference regarding a revised scheduling order

on or after October 31, 2022, and after the Court determines the motion for leave to amend.

Respectfully submitted,

DAVID A. HUBBERT
Deputy Assistant Attorney General
Tax Division, U.S. Department of Justice

DAWN N. ISON
United States Attorney

JACQUELINE M. HOTZ
Assistant U.S. Attorney
211 W. Fort Street, Ste. 2001
Detroit, MI 48226
Tel: (313) 226-9108
Jackie.Hotz@usdoj.gov
Mich. Bar No.: P35219

/s/ Ryan D. Galisewski
RYAN D. GALISEWSKI
Trial Attorney, Tax Division
U.S. Department of Justice
P.O. Box 55, Ben Franklin Station
Washington, D.C. 20044
Tel: (202) 305-3719 / Fax: (202) 514-5238
Ryan.D.Galisewski@usdoj.gov

CERTIFICATE OF SERVICE

I certify that service of the foregoing *Motion to Reopen Case* has this 5th day of October 2022 been made via electronic notification through the Court's CM/ECF electronic filing system, to all parties who have entered an appearance in this action and are participating in the Court's CM/ECF electronic filing system.

Copies of these documents have also been sent via U.S. Mail to:

Damian Jackson
33160 Wendy Dr.
Sterling Heights, MI 48310
Pro Se Defendant

Holly Jackson
33160 Wendy Dr.
Sterling Heights, MI 48310
Pro Se Defendant

/s/ Ryan D. Galisewski
RYAN D. GALISEWSKI
Trial Attorney, Tax Division
U.S. Department of Justice